

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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P.S. and K.S., on behalf of M.S.,

Plaintiffs,

- against -

NEW YORK CITY DEPARTMENT OF
EDUCATION,

Defendant.

07 CV 10550 (RJH)

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

-----X
WHEREAS, the plaintiffs, P.S. and K.S., on behalf of M.S., commenced this action by filing a summons and complaint in the United States District Court, Southern District of New York on or about November 26, 2007, seeking attorneys' fees incurred in connection with Case No. 58503 [2003-2004], Case No. 1111141 [2005-2006], and Case No. 105979 [2006-2007] impartial hearings held pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq;

WHEREAS, the defendant denies any and all liability arising from plaintiffs' allegations;

WHEREAS, the parties now desire to resolve the issues raised in this complaint without further proceedings and without admission of fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, and fees in excess of the amount specified in paragraph 2 below.

2. The New York City Department of Education hereby agrees to pay Gary Mayerson and Associates, as attorneys for the plaintiffs, the sum of twenty six thousand dollars (\$26,000.00) ("Settlement Amount"), in full satisfaction of all claims that were or could have been raised in this action for costs, expenses, and attorney's fees. This does not, however, impact the underlying relief directed by the Impartial Hearing Officers' decisions, or any viable claims plaintiffs might have for school years beyond 2006-2007.

3. In consideration for the payment of the settlement amount, plaintiffs and plaintiffs' counsel agree to dismiss and discontinue, with prejudice, all claims in this action against defendant and to release defendant, its successors and assigns, and all present or former officials, employees, representatives and agents of the City of New York ("City") and the New York City Department of Education ("DOE"), from any and all liability, claims, and/or rights of action arising from the allegations set forth in the complaint herein, whether known or unknown, concerning all claims for costs, expenses and attorney's fees incurred in connection with this action and the underlying, previously adjudicated administrative proceedings giving rise to this action.

4. Plaintiffs and plaintiffs' counsel shall execute and deliver to defendant's attorneys all documents necessary to effect this settlement, including, without limitation, releases based on the terms set forth in paragraph 3 above, and a substitute W-9 form.

5. Nothing contained herein shall be deemed to be an admission by the defendant of any of the plaintiffs' allegations, nor an admission by the defendant that it has in any manner or way violated the rights of plaintiffs, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, charters, by-laws, rules or regulations of the United States, the State of New York, or the City of New York, or any other rules, regulations or

bylaws of any department or subdivision of the City of New York, including the DOE. This Stipulation and Order shall not be admissible in, nor is it related to, any other litigation or settlement negotiations except for enforcement of the provisions contained herein.

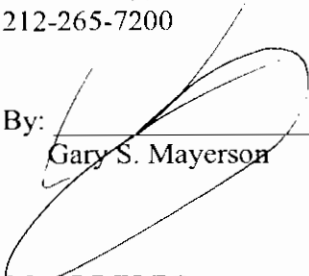
6. Nothing contained herein shall be deemed to constitute a policy or practice of the City or DOE.

7. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

8. The parties understand that the Court's endorsement of this stipulation constitutes compliance with Federal Rule of Civil Procedure 17.

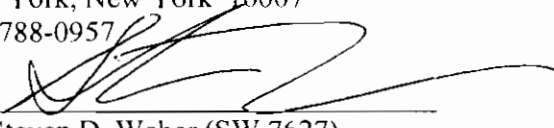
Dated: May 21, 2008
New York, New York

GARY S. MAYERSON, Esq.
Mayerson and Associates
Attorney for Plaintiffs
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New York, New York 10018
212-265-7200

By: 

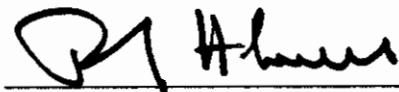
Gary S. Mayerson

MICHAEL A. CARDOZO
Corporation Counsel
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New York, New York 10007
212-788-0957

By: 

Steven D. Weber (SW 7627)
Assistant Corporation Counsel

SO ORDERED:



U.S.D.J. 2/2/08